

argument in addition to that put forth by the parties.

(e) *Examination of witnesses.* Witnesses before the Board will testify under oath or affirmation. A party or the Board may obtain an answer from any witness to any question that is not the subject of an objection that the Board sustains.

(f) *Refusal to be sworn.* If a person called as a witness refuses to be sworn or to affirm before testifying, the Board may direct that witness to do so and, in the event of continued refusal, the Board may permit the taking of testimony without oath or affirmation. Alternatively, the Board may refuse to permit the examination of that witness, in which event it may state for the record the inferences it draws from the witness's refusal to testify under oath or affirmation. Alternatively, the Board may issue a subpoena to compel that witness to testify under oath or affirmation and, in the event of the witness's continued refusal to swear or affirm, may seek enforcement of that subpoena pursuant to 6101.20(h).

(g) *Refusal to answer.* If a witness refuses to answer a question put to him in the course of his testimony, the Board may direct that witness to answer and, in the event of continued refusal, the Board may state for the record the inferences it draws from the refusal to answer. Alternatively, the Board may issue a subpoena to compel that witness to testify and, in the event of the witness's continued refusal to testify, may seek enforcement of that subpoena pursuant to 6101.20(h).

(h) *Issues not raised by pleadings.* If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings, it may nevertheless be admitted by the Board if it is within the proper scope of the case. If such evidence is admitted, the Board may grant the objecting party a continuance to enable it to meet such evidence. If such evidence is admitted, the pleadings may be amended to conform to the evidence, as provided by 6101.12(e).

(i) *Delay by parties.* If the Board determines that the hearing is being unreasonably delayed by the failure of a party to produce evidence, or by the undue prolongation of the presentation

of evidence, it may, by written order or by ruling from the bench, prescribe a time or times within which the presentation of evidence must be concluded, establish time limits on the direct or cross-examination of witnesses, and enforce such order or ruling by appropriate sanctions.

6101.22 Admissibility and weight of evidence [Rule 22].

(a) *Admissibility.* Any relevant evidence may be received. The Board may exclude relevant evidence to avoid unfair prejudice, confusion of the issues, undue delay, waste of time, or needless presentation of cumulative evidence. Hearsay evidence is admissible unless the Board finds it unreliable or untrustworthy.

(b) *Federal Rules of Evidence.* As a general matter, and subject to the other provisions of this section, the Board will base its evidentiary rulings on the Federal Rules of Evidence.

(c) *Weight and credibility.* The Board will determine the weight to be given to evidence and the credibility to be accorded witnesses.

(d) *Submission of evidence in camera.* 6101.12(h) governs submissions *in camera*.

6101.23 Exhibits [Rule 23].

(a) *Marking of exhibits.* (1) Documents and other tangible things offered in evidence by a party will be marked for identification by the Board during the hearing or, if it is convenient for the Board and the parties, before the commencement of the hearing. They will be numbered consecutively as the exhibits of the party offering them.

(2) If a party elects to proceed on the record without a hearing pursuant to 6101.11, documentary evidence submitted by that party will be numbered consecutively by the Board as appeal or protest file exhibits.

(b) *Copies as exhibits.* Except upon objection sustained by the Board for good cause shown, copies of documents may be offered and received into evidence as exhibits, provided they are of equal legibility and quality as the originals, and such copies shall have the same force and effect as if they were the originals. If the Board so directs, a party offering a copy of a document as